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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,818		04/12/2001	Pnina Fishman	2786-0170P	1935
2292	7590	10/10/2002			
BIRCH ST	EWART	KOLASCH & BI	EXAMINER		
PO BOX 74			VOLDIC TOSEBUINE		
FALLS CH	URCH, V	A 22040-0747	YOUNG, JOSEPHINE		
				ART UNIT	PAPER NUMBER
				1623	~
				DATE MAILED: 10/10/2002	/

Please find below and/or attached an Office communication concerning this application or proceeding.

	` `	Application No.	Applicant(s)				
	_	09/832,818	FISHMAN, PNINA				
	Office Action Summary	Examiner	Art Unit				
		Josephine Young	1623				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
Period f r Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status	D						
1)	Responsive to communication(s) filed on						
. 2a)□	, —	is action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims							
4)🖂	Claim(s) $1-35$ is/are pending in the application	1.					
4a) Of the above claim(s) is/are withdrawn from consideration.							
5)	Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.							
7)	Claim(s) is/are objected to.	•					
•	Claim(s) <u>1-35</u> are subject to restriction and/or e	election requirement.					
	on Papers						
9) The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.							
If approved, corrected drawings are required in reply to this Office action.							
12) The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a)L	☐ All b)☐ Some * c)☐ None of:	- have been received					
	1. Certified copies of the priority documents have been received.						
	2. Certified copies of the priority documents have been received in Application No						
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
2) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s) _	5) Notice of Inform	nary (PTO-413) Paper No(s) nal Patent Application (PTO-152)				
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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-16 and 27-35, drawn to methods for activating natural killer cells,

methods for a therapeutic treatment of diseases related to natural killer cells using

adenosine A3 receptor agonists and pharmaceutical compositions comprising said

agonists, classified in class 514, subclass 46⁺.

II. Claims 17-26, drawn to methods for treatment of diseases related to natural killer

cells using NK cells a priori activated with at least one adenosine A3 receptor

agonist, classified in class 435, subclass 325⁺.

The inventions are distinct, each from the other because of the following reasons:

Groups I and II are unrelated. Inventions are unrelated if it can be shown that they are

not disclosed as capable of use together and they have different modes of operation, different

functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different

inventions are directed to patentably distinct methods. The method of Group I involves the

administration of one or more compound, i.e. adenosine A3 receptor agonists (A3RAg). The

method of Group II involves the administration of cells, i.e. activated natural killer cells. In

addition, the method of Group I is directed to the administration of A3RAg's that activate natural

killer cells in vivo. The method of Group II is directed to the administration of natural killer cells

Application/Control Number: 09/832,818

Art Unit: 1623

that have already been activated a priori. The method of one does not render obvious the method of the other.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Searches for the two groups would not be co-extensive, and therefore place an undue burden on the Examiner. A reference for one group could not reasonably be expected to be a reference for the other. Further, searching both the inventions constitutes a burdensome search, as a thorough search comprises a search of foreign patents and non-patent literature, as well as the appropriate U.S. patent classifications. To search the two independent and distinct inventions, set forth supra, would indeed impose an undue burden upon the examiner in charge of this application.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even if the requirement is traversed (37 CFR 1.143).

Group I of this application contains claims directed to the following patentably distinct species of the claimed invention: methods for activating natural killer cells, treatment of diseases associated with natural killer cells using adenosine A3 receptor agonists, and pharmaceutical compositions comprising such agonists, wherein the agonist includes (a) purine derivatives (without a sugar moiety), (b) nucleoside derivatives wherein Y is oxygen or sulfur and (c) nucleoside derivatives wherein Y is carbon.

Application/Control Number: 09/832,818

Art Unit: 1623

If Group I is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-2, 7-10, 15-16 of Group I are generic.

Similarly, Group II of this application contains claims directed to the following patentably distinct species of the claimed invention: methods for treatment of diseases associated with natural killer cells using natural killer cells activated a priori by at least one adenosine A3 receptor agonist, including (a) purine derivatives (without a sugar moiety), (b) nucleoside derivatives wherein Y is oxygen or sulfur and (c) nucleoside derivatives wherein Y is carbon.

If Group II is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 17-19 and 24-26 of Group II are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Application/Control Number: 09/832,818 Page 5

Art Unit: 1623

Should applicant traverse on the ground that the species are not patentably distinct,

applicant should submit evidence or identify such evidence now of record showing the species to

be obvious variants or clearly admit on the record that this is the case. In either instance, if the

examiner finds one of the inventions unpatentable over the prior art, the evidence or admission

may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Josephine Young whose telephone number is (703) 605-1201.

The examiner can normally be reached on Monday through Friday, 9:00 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James O. Wilson can be reached at (703) 308-4624. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 305-3014 for regular

communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-1235.

JY

October 8, 2002